UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,924	08/22/2001	Brian R. Beams	05222.00184	9686

29638	7590	06/05/2006

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EXAMINER
SALAD, ABDULLAHI ELMI

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/934,924	BEAMS ET AL.
Office Action Summary	Examiner	Art Unit	
	Salad E. Abdullahi	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 May 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>20-57</u> is/are pending in the application.

    4a) Of the above claim(s) <u>39-57</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>20-38</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

5/10/2006 has been entered.

2.   The applicant's arguments filed on 5/10/2006 with respect to claims 20-38 have

been considered but are not persuasive for the following reasons.

3.   Applicant alleges "Herz does not suggest anything about dynamically adding

second virtual instructor with the first virtual instructor and the one or more users".

4.   Examiner respectfully disagrees, because Herz discloses the system will

recommend the most appropriate on-line lecture either involving a virtual tutor where the

student may receive a recommendation of the name of the most skilled or experienced

faculty or student recommended tutor (that is adding virtual tutors as needed basis on

the student needs)(see col. 94, lines 47-67).

5.   Furthermore, Herz discloses "in one approach school activities (from either one

or a large number of schools) may be accessible for participation remotely. Classroom

lectures, continuing education seminars, conferences, tutorials for job training (or on-

going job training requirements) may apply. The most exemplary application however is

the virtual classroom. Students may use nearest neighbor indexing to either describe or

present a particular topic or problems or a query. The system will recommend the most

appropriate on-line lecture either live, if the student wishes to interact (e.g.,

recommending the next scheduled time) or the most appropriate pre-recorded lecture.

For solutions to problems, a virtual tutor involving (either a live or pre-recorded single

(closed) session or multi-student session may be presented similarly) or the student

may receive a recommendation of the name of the most skilled or experienced faculty

or student recommended tutor. In the classroom application the student may either

present questions on-line to the lecturer (throughout the lecture or at pre-designated

intervals) or the best ones may be selected by a moderator) (see col. 94, lines 47-67).

This obviously indicates dynamically adding second virtual instructor with the first virtual

instructor and the one or more users

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 20-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Daniels in view of Herz U.S. Patent No. 6,029,195[hereinafter Herz].

As per claim 20, Daniels disclose a method for providing one or more virtual instructors

(virtual teacher), comprising the steps:

connecting a server and one or more users and first virtual instructor (first teacher) (see

col. 3, lines 15-40 and col. 4, lines 19-50 and col. 6, lines 37-64);

selecting a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50);

coupling the one or more users through the server based on the selected destination see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

establishing interaction parameters (providing support functions) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

In considering claim 21, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 22, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor (second teacher) is selected by one more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 23, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 24, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instructor the one or more users (see col. 6, lines 36-63).

In considering claim 25, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first instructor (see col. 6, lines 36-63).

In considering claim 26, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more users (see col. 13, lines 8-13).

In considering claim 27, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 28, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, the second virtual instructor the interaction parameters include support of for electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

As per claim 29, Daniels disclose an apparatus for providing one or more virtual instructors (virtual teacher), comprising the steps:

logic that connects a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 4, lines 19-50 and col. 6, lines 37-64);

logic that selects a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50);

logic that couples the one or more users through the server based on the selected destination see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

logic that establishes interaction parameters (providing support functions) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

As per claim 30, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors comprising the steps:

a code that connects a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 6, lines 37-64);

a code that selects a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40);

a code that couples the one or more users through the server based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

a code that establishes interaction parameters (providing support functions) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have

been obvious to one having ordinary skill in the art at the time of the invention to

incorporate the teaching of Herz into the system of Daniels such that more proficient

teachers in math or reading can be assigned to teach less proficient students based

needs of the students.

In considering claim 31, Daniels disclose a computer program embodied on a

computer-readable medium that provides one or more virtual instructors as recited in

claim 20, wherein the second virtual instructor monitors progress and provides feedback

(see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 32 Daniels disclose a computer program embodied on a computer-

readable medium that provides one or more virtual instructors as recited in claim 20,

wherein the second virtual instructor (second teacher) is selected by one more users

(see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 33, Daniels disclose a computer program embodied on a computer-

readable medium that provides one or more virtual instructors as recited in claim 20,

wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and

col. 14, lines 37-64).

In considering claim 34, Daniels disclose a computer program embodied on a computer-

readable medium that provides one or more virtual instructors as recited in claim 20,

wherein the second virtual instructor works with the first instructor to instructor the one or more users (see col. 6, lines 36-63).

In considering claim 35, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first instructor (see col. 6, lines 36-63).

In considering claim 36, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more users (see col. 13, lines 8-13).

In considering claim 37, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 38, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor the interaction parameters include support of for

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electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-

63 and col. 14, lines 37-64).

CONCLUSION

8.   The prior art made of record and not relied upon is considered pertinent to the

applicant's disclosure.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Salad E Abdullahi whose telephone number is 571-272-

4009. The examiner can normally be reached on 8:30 - 5:00. If attempts to reach the

examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can

be reached on 571-272-4001. The fax phone number for the organization where this

application or proceeding is assigned is **571-273-8300.**

10.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Abdullahi Salad
5/26/2006
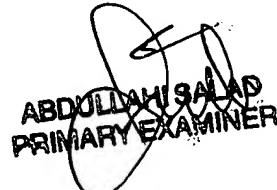
ABDULLAHI SALAD
PRIMARY EXAMINER